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**SUBSTITUTE HOUSE BILL 2191**

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**State of Washington**

**69th Legislature**

**2026 Regular Session**

**By** House Labor & Workplace Standards (originally sponsored by Representatives Cortes, Obras, Parshley, Kloba, Callan, Ramel, Mena, Doglio, Simmons, Scott, Peterson, Berry, Fosse, Reed, Salahuddin, Santos, Street, Duerr, Thomas, Stonier, Gregerson, Ormsby, Berg, Goodman, Macri, Hill, and Pollet)

READ FIRST TIME 01/30/26.

1 AN ACT Relating to ensuring accountability for payment of  
2 workers' wages and benefits in the construction industry; adding a  
3 new chapter to Title 49 RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) There is a substantial underground economy in the  
7 construction industry in the state.

8 (b) Underground economy practices, such as misclassifying  
9 employees as independent contractors, cost workers an estimated  
10 \$142.6 million on average per year in wages and benefits between 2011  
11 and 2021, according to a 2023 report by the Washington state  
12 institute for public policy.

13 (c) State law establishes protections for employees to ensure  
14 they are paid wages fully and on time. However, current law does not  
15 include a mechanism for a worker employed by a subcontractor to seek  
16 payment of unpaid wages and benefits from upper-tier contractors.

17 (d) The underground economy in construction task force's 2025  
18 report to the legislature included a majority recommendation to  
19 consider legislation that holds direct contractors liable for unpaid  
20 wages owed to employees of subcontractors at any tier.

1 (2) The legislature intends to create additional mechanisms for  
2 workers to seek payment of wages and benefits owed to them when those  
3 wages and benefits are illegally withheld.

4 NEW SECTION. **Sec. 2.** The definitions in this section apply  
5 throughout this chapter unless the context clearly requires  
6 otherwise.

7 (1) "Authorized third party representative" means a third party  
8 that is authorized by an unrepresented employee to assert the rights  
9 of the unrepresented employee.

10 (2) "Construction contract" means an express or implied agreement  
11 for the construction, reconstruction, alteration, maintenance,  
12 moving, or demolition of any building, structure, or improvement, or  
13 relating to the excavation or other development of, or improvement  
14 to, land.

15 (3) "Construction trade labor organization" means a bona fide  
16 labor organization that represents employees in the building and  
17 construction trades.

18 (4) (a) "Direct contractor" means any person, including a  
19 construction manager, joint venture, or any combination thereof,  
20 along with the person's successors, that enters into a construction  
21 contract with an owner.

22 (b) "Direct contractor" includes any officer, director, managing  
23 member, manager, or other individual who exercises substantial  
24 discretionary control over the finances, overall management, or  
25 employment policies and practices of the entity, regardless of  
26 ownership percentage.

27 (5) "Fringe benefit contributions" means the amount of payments  
28 or contributions that accompany or are in addition to an employee's  
29 regular salary or wages including, but not limited to, payments made  
30 to profit-sharing plans, retirement or pension plans, medical  
31 insurance plans, severance pay plans, or holiday, vacation, or sick  
32 leave plans, but does not include the benefit payments from such  
33 plans.

34 (6) "Labor organization" means an organization, agency or an  
35 employee representation committee or plan, in which employees  
36 participate and which exists, in whole or in part, for the purpose of  
37 dealing with employers concerning grievances, labor disputes, wages,  
38 rates of pay, hours of employment or work conditions.

1 (7) (a) "Owner" means any person, firm, partnership, corporation,  
2 association, company, organization, or other entity or combination of  
3 any thereof, along with their successors, with an ownership interest,  
4 whether that interest or estate is in fee or is less than fee,  
5 including as vendee under a contract to purchase or as lessee, that  
6 causes:

7 (i) A building, structure, or improvement, new or existing, to be  
8 constructed, reconstructed, erected, altered, remodeled, repaired,  
9 maintained, moved, or demolished; or

10 (ii) Land to be excavated or otherwise developed or improved.

11 (b) "Owner" includes any officer, director, managing member,  
12 manager, or other individual who exercises substantial discretionary  
13 control over the finances, overall management, or employment policies  
14 and practices of the entity, regardless of ownership percentage.

15 (c) "Owner" does not include:

16 (i) An authorized local government, municipality, state, or state  
17 agency as defined in RCW 39.04.010; or

18 (ii) A tribe as defined under RCW 43.376.010.

19 (8) "Reimbursements" means necessary expenditures or losses  
20 incurred by an unrepresented employee in direct consequence of the  
21 discharge of their duties, including the cost of tools, equipment,  
22 personal protective equipment, or other materials required by the  
23 employer or by the nature of the work.

24 (9) (a) "Subcontractor" means any person that is a party to an  
25 express or implied contract with a direct contractor, or with a  
26 direct contractor's subcontractors at any tier, to perform any  
27 portion of work within the scope of the direct contractor's  
28 construction contract with the owner, including a person that has no  
29 direct privity of contract with the direct contractor.

30 (b) "Subcontractor" includes any officer, director, managing  
31 member, manager, or other individual who exercises substantial  
32 discretionary control over the finances, overall management, or  
33 employment policies and practices of the entity, regardless of  
34 ownership percentage.

35 (10) "Unrepresented employee" means an employee of a direct  
36 contractor or subcontractor who is:

37 (a) Not represented by a construction trade labor organization  
38 that has established itself or its affiliates as the collective  
39 bargaining representative for persons performing work on a project;  
40 and

1 (b) Not covered by a collective bargaining agreement that:

2 (i) Contains a grievance procedure that results in a final and  
3 binding decision; and

4 (ii) Provides a mechanism for recovering unpaid wages and fringe  
5 benefit contributions on behalf of the employees covered by the  
6 agreement.

7 NEW SECTION. **Sec. 3.** (1) An owner and a direct contractor that  
8 enter into a construction contract are jointly and severally liable  
9 for any unpaid wages, including fringe benefit contributions,  
10 compensation for missed meal and rest periods, reimbursements,  
11 penalties, and damages, owed to any unrepresented employee of the  
12 direct contractor and any unrepresented employee of a subcontractor  
13 at any tier for labor performed on a project within the scope of the  
14 construction contract.

15 (2) The unrepresented employee or an authorized third party  
16 representative may bring a civil action against an owner, a direct  
17 contractor, or a subcontractor in any court of competent jurisdiction  
18 to recover unpaid wages, including fringe benefit contributions,  
19 compensation for missed meal and rest periods, reimbursements,  
20 interest, penalties, double damages, noneconomic damages, attorney  
21 fees, expert witness fees, and costs incurred in connection with the  
22 action. "Penalties" and "double damages" under this section are  
23 mandatory and must be awarded regardless of whether the failure to  
24 pay wages was willful.

25 (3) A civil action under this section to recover unpaid wages,  
26 including fringe benefit contributions, compensation for missed meal  
27 and rest periods, reimbursements, penalties, and damages, must  
28 commence within three years from the date on which the unpaid wages,  
29 including fringe benefit contributions, compensation for missed meal  
30 and rest periods, reimbursements, penalties, and damages, became due.

31 (4) (a) Prior to commencing a civil action against an owner or a  
32 direct contractor under this section, a person must send written  
33 notice of the alleged violation by first-class certified mail to the  
34 owner and direct contractor that sets forth the alleged violation and  
35 the nature of the claim and states that the owner and the direct  
36 contractor have 21 calendar days from the certified delivery date to  
37 correct the alleged violation. Such notice does not limit the  
38 liability of the owner or direct contractor or preclude a person from

1 subsequently amending a complaint after the action is commenced to  
2 include additional parties to the action.

3 (b) A civil action may not be initiated until after the time  
4 period in (a) of this subsection has expired.

5 (c) A civil action may not be brought against an owner or direct  
6 contractor if the owner or direct contractor has corrected the  
7 alleged violation within the time period specified in (a) of this  
8 subsection.

9 (5) Any agreement to waive or release an owner or direct  
10 contractor from liability, or to indemnify an owner or direct  
11 contractor for liability assigned under this section, is invalid.

12 (6) An owner or direct contractor may not avoid liability under  
13 this section by claiming that a person performing labor on a project  
14 within the scope of a construction contract is an independent  
15 contractor rather than an employee of a direct contractor or  
16 subcontractor, unless the person qualifies as an independent  
17 contractor under chapter 49.46 RCW.

18 (7) In any action brought under this section, there is a  
19 rebuttable presumption that a person performing labor on a project  
20 within the scope of a construction contract is an employee. The party  
21 claiming otherwise may rebut the presumption by establishing that the  
22 person qualifies as an independent contractor under chapter 49.46  
23 RCW.

24 (8) Nothing in this section impairs:

25 (a) The right of an owner or direct contractor to bring an action  
26 against a subcontractor to seek recovery of actual and liquidated  
27 damages for the amounts paid by the owner or direct contractor for  
28 unpaid wages, including fringe benefit contributions, compensation  
29 for missed meal and rest periods, reimbursements, interest,  
30 penalties, double damages, noneconomic damages, attorney fees, expert  
31 witness fees, and incurred costs associated with an action brought  
32 under this section;

33 (b) The right of an owner to bring an action against a direct  
34 contractor to seek recovery of actual and liquidated damages for the  
35 amounts paid by the owner for unpaid wages, including fringe benefit  
36 contributions, compensation for missed meal and rest periods,  
37 reimbursements, interest, penalties, double damages, noneconomic  
38 damages, attorney fees, expert witness fees, and incurred costs  
39 associated with an action brought under this section.

1 (9) Nothing in this section is intended to diminish the rights,  
2 privileges, or remedies of an employee under a collective bargaining  
3 agreement.

4 (10) An owner, direct contractor, or subcontractor may not  
5 intimidate, threaten, restrain, coerce, blacklist, discharge, or in  
6 any manner discriminate or retaliate against any employee who has:

7 (a) Filed any complaint or instituted, or caused to be  
8 instituted, any proceeding under this section;

9 (b) Testified or provided evidence, or who is about to testify or  
10 provide evidence, in any proceeding on behalf of themselves or  
11 another person regarding protections afforded under this section; or

12 (c) Raised concerns in good faith about compliance with, or  
13 otherwise provided information regarding, legal rights and remedies  
14 available under this section.

15 (11) Any effort to use a person's immigration status to  
16 negatively impact a worker's wage and hour rights, responsibilities,  
17 or participation in proceedings under this section constitutes  
18 intimidation, coercion, discrimination, or retaliation in violation  
19 of subsection (10) of this section.

20 (12) Any violation of subsection (10) of this section entitles  
21 the unrepresented employee or an authorized third party  
22 representative to seek reinstatement, back pay, damages, attorney  
23 fees, and any other equitable relief deemed appropriate by the court.

24 (13) This chapter is in addition to and does not otherwise limit  
25 authority under federal, state, or local law.

26 NEW SECTION. **Sec. 4.** (1) Upon an owner's or direct contractor's  
27 request, any subcontractor with whom a direct contractor has entered  
28 into a contract to perform a portion of a construction project within  
29 the scope of a construction contract between the direct contractor  
30 and an owner must provide the following records to the owner or  
31 direct contractor:

32 (a) Certified payroll reports that, at a minimum, include  
33 sufficient information for the direct contractor to determine whether  
34 a subcontractor has paid in full all wages earned by employees who  
35 performed work on the project as part of the employees' total  
36 compensation;

37 (b) The name, address, and phone number of a contact for the  
38 subcontractor;

1 (c) The names of all workers who performed work on the  
2 construction project and notation of whether each worker is  
3 classified as an employee or an independent contractor;

4 (d) The names of any subcontractors with whom the first-tier  
5 subcontractor contracts;

6 (e) The anticipated contract start date and scheduled duration of  
7 work;

8 (f) An affidavit attesting to whether the subcontractor or any of  
9 its current principals has, within the preceding five years, been the  
10 subject of, or participated in, any civil, administrative, or  
11 criminal proceeding, investigation, citation, or settlement, that  
12 involved any allegations of a wage and hour violation under local,  
13 state, or federal law; and

14 (g)(i) If a matter under (f) of this subsection (1) has  
15 concluded, the outcome, including any judgment, settlement, damages,  
16 fees, penalties, or amounts paid to workers or to a government  
17 agency; or

18 (ii) If a matter under (f) of this subsection (1) remains  
19 pending, a description of the status of the proceedings or  
20 investigation.

21 (2) A subcontractor must provide the records described in  
22 subsection (1) of this section to an authorized third party  
23 representative only to the extent that the information contained in  
24 the records pertains specifically to the employee on whose behalf the  
25 authorized third party representative is acting and to whatever  
26 extent that the subcontractor would be lawfully required to disclose  
27 such records to the employee if the employee was acting on the  
28 employee's own behalf.

29 (3) A subcontractor's compliance or failure to comply with a  
30 request under this section does not relieve the owner or direct  
31 contractor of the liability prescribed by section 3 of this act.

32 (4) Nothing in this section alters an owner's or direct  
33 contractor's obligation to timely pay a subcontractor, except that an  
34 owner and direct contractor may:

35 (a) Withhold payment to a subcontractor because of the  
36 subcontractor's failure to comply with the request for records under  
37 subsection (1) of this section; and

38 (b) Withhold payment to a subcontractor if the direct contractor  
39 has paid wages, on behalf of the subcontractor, to the  
40 subcontractor's employees.

1 (5) A direct contractor or subcontractor may not disclose  
2 personally identifying information about a worker who performs work  
3 on a construction project except as necessary to comply with state or  
4 federal laws.

5 (6) As used in this section, "principal" means a person,  
6 including an owner or a direct contractor, that commissions a  
7 construction project and that is responsible for the project's scope,  
8 standards, and objectives.

9 NEW SECTION. **Sec. 5.** (1) Liability imposed on an owner under  
10 section 3 of this act does not apply to construction contracts that  
11 relate to real property that is used as the owner's principal  
12 residence, or to real property consisting of five or fewer  
13 residential or commercial units on a single tract, as defined in RCW  
14 84.04.130.

15 (2) Nothing in this section limits or affects the liability of a  
16 direct contractor under section 3 of this act.

17 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act  
18 constitute a new chapter in Title 49 RCW.

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